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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,847	02/17/2006	Clive Anthony Payne	4393-123 US	4957
26817	7590	01/07/2009	EXAMINER	
MATHEWS, SHEPHERD, MCKAY, & BRUNEAU, P.A. 29 THANET ROAD, SUITE 201 PRINCETON, NJ 08540			HWANG, VICTOR KENNY	
ART UNIT	PAPER NUMBER			
	3764			
MAIL DATE	DELIVERY MODE			
01/07/2009	PAPER			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that the prior art does not teach a second condition wherein the exercise apparatus has been rotated through approximately 90 degrees so that the cross bar is adjacent, in use in the second condition, the floor, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-7, 9, 10 and 12-23 are rejected under 35 U.S.C. 102(e) as being anticipated by *Burrell* (US Pat. 6,692,417 B2). *Burrell* discloses an exercise apparatus comprising two spaced apart uprights 117 joined to a cross bar 131 provided with a limb support means, the upright being of such a length that the cross bar is spaced from the floor sufficiently such that, in use, the

limb support means is capable of supporting the legs of the user when the user is positioned beneath the cross bar, the cross bar also being sufficiently spaced from the floor such that, in use, the limb support means comprises a hand grip means 136 to enable a user to push down on the exercise apparatus so that the exercise apparatus supports at least some of the user's weight, the limb support means comprising a concave limb support 130 formed centrally on the cross bar, each of the uprights comprising a base portion 116 which rests, in a first condition, in use, on the floor, and an arm portion 114 extending away from the base portion and the floor, the cross bar being joined to the arm portion at a position of the arm portion distal from the base portion, an orientation of the arm portion relative to the base portion being such that the exercise apparatus can be used in a second condition wherein the exercise apparatus has been rotated through approximately 90° so that the cross bar is adjacent, in use in the second condition, the floor.

The limb support means comprises two outer concave limb supports (integral with the cross bar 131) that are relatively spaced along the longitudinal axis of the cross bar on respective sides of the concave limb support 130. Each of the two other outer limb supports are adjacent a respective one of the uprights. The cross bar is further provided with at least two perpendicular limb supports 136 that are also relatively spaced along the longitudinal axis of the cross bar and which extend perpendicularly away from the longitudinal axis of the cross bar. The perpendicular limb supports 136 are positioned between the two outer limb supports so as to be spaced from the uprights 117. Each of the perpendicular limb support supports terminates in a handle limb support 118 the longitudinal axis of which is substantially perpendicular to the longitudinal axis of the respective perpendicular limb support.

The exercise apparatus comprises adjustment means operative to vary the orientation of the further handle support relative to the respective perpendicular limb support. The adjustment means is operative such that the orientation of the handle limb support can be adjusted to a plurality of discrete positions relative to the perpendicular limb support. The adjustment means comprises a plug 152 formed on one of the perpendicular or handle limb supports, and a socket 154 on the other of the perpendicular or handle limb supports, the socket, in use, receiving the plug and engaging the plug to retain the plug in an orientation relative to the socket, the orientation being adjustable by removing the plug from the socket and reinserting the plug in the socket in a different orientation. The two outer limb supports and the first concave limb support together can be considered of waved formation. The uprights and the cross bar are removably joined together such that the exercise apparatus is collapsible.

The arm portion 117 extends away at an incline of substantially 45 degrees from one end of the base portion 116 to a position substantially above the mid point of the base portion. The base portion is provided with a handgrip 270,272. The orientation of each handgrip relative to the respective base portion is adjustable by rotating the longitudinal axis of the handgrip relative to the respective base portion about an axis that is perpendicular to the longitudinal axis of the base portion, the orientation of each handgrip is adjustable to a plurality of discrete positions, including four discrete positions.

***Allowable Subject Matter***

4. Claims 8 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTOR K. HWANG whose telephone number is (571) 272-4976. The examiner can normally be reached on M-F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LoAn H. Thanh can be reached on (571) 272-4966. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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